

CHAPTER 185**(SB 200)**

AN ACT relating to mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

- (1) *Effective September 1, 2006, each licensed underground facility shall provide telephone service or equivalent two-way communication facilities, approved by the executive director or his authorized representative, between the surface of each landing of main shafts and slopes, and between the surface and each working section that is more than one hundred (100) feet from a portal. Implementation of telephone or equivalent two-way communication facilities shall be subject to the following provisions:*
 - (a) *Telephones or equivalent two-way communications facilities provided at each working section shall be located not more than five hundred (500) feet outby the last open crosscut and not more than eight hundred (800) feet from the farthest point of penetration of the working faces on the section;*
 - (b) *Primary telephone or two-way communications systems and lines shall be located in the intake air course or adjacent entry, but shall not be located in the beltway or return air courses unless approved by the executive director of the Office of Mine Safety and Licensing in seams with coal heights twenty-six (26) inches or less; and*
 - (c) *The incoming communication signal on the telephone or other approved two-way communications system shall activate an audible alarm that is distinguishable from the surrounding noise level and a visual alarm that can be seen by a miner regularly employed on the working section.*
- (2) *Effective September 1, 2006, each licensed underground facility shall have a telephone or equivalent two-way communications facility located on the surface within one thousand (1,000) feet of all main portals. The telephone or equivalent two-way communication system shall be installed in either a building or in a box-like structure designed to protect the communication equipment from damage by inclement weather. At least one (1) of these communications systems shall be at a location where a responsible person is available and authorized to respond to an emergency situation at all times when miners are working underground. The incoming communication signal on the telephone or other approved two-way communications system shall activate an audible alarm, distinguishable from the surrounding noise level and a visual alarm that can be seen by the responsible person stationed near the communication system.*
- (3) *Effective September 1, 2006, each licensed underground facility shall have a telephone or equivalent two-way communications system located on the surface which can be used to activate the licensed facilities emergency action plan required in Section 2 of this Act and to comply with reporting requirements contained in Section 19 of this Act. The telephone or equivalent two-way communication system shall be installed in either a building or in a box-like structure designed to protect the communication equipment from damage by inclement weather. At least one (1) of the communication systems shall be at a location where a responsible person is available and authorized to respond at all times to an emergency situation when miners are working. The incoming communication signal on the telephone or other approved two-way communications system shall activate an audible alarm, distinguishable from the surrounding noise level and a visual alarm that can be seen by the responsible person stationed near the communication facility.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

- (1) *An emergency action plan shall be submitted with each application for a license to operate an underground mine. The emergency action plan shall be for use during emergencies at the licensed facility. The plan shall consist of the following components:*
 - (a) *A certification, submitted by the applicant, that the telephone or equivalent two-way communication system will be in place and functioning at the facility when operation begins;*
 - (b) *A listing of the telephone numbers of the facility personnel, state and federal regulatory agencies, and state, federal, and local emergency response agencies to be contacted in the event of a mine emergency;*

- (c) *The positions and telephone numbers of the persons designated by the licensee to implement the emergency action plan during mine emergencies;*
 - (d) *The name of the ambulance service or first responder with which the licensee has made arrangements to provide twenty-four (24) hour emergency medical assistance for any person injured at the licensed facility;*
 - (e) *A copy of the licensed facility's mine emergency evacuation and fire-fighting plan, if one is required; and*
 - (f) *A training schedule for all personnel as to their responsibilities under the emergency action plan. On site, each licensed facility shall maintain a log containing training dates, the personnel trained, and their positions and shifts.*
- (2) *The licensee shall provide a revised copy of the plan to the district office and the Frankfort office of the Office of Mine Safety and Licensing within ten (10) days of a change in any of the information required in subsection (1) of this section becoming effective.*
 - (3) *The licensee shall be responsible for ensuring that copies of the licensed facility's emergency action plan are submitted to the appropriate district office and to the Frankfort office of the Office of Mine Safety and Licensing. Copies of the plan also shall be kept on the premises of the licensed facility where it shall be made open to inspection by the licensee's employees and their independent contractors and inspectors.*
 - (4) *Each licensed facility shall post in a prominent place at the mine office a copy of all emergency contact numbers. The list of emergency contact numbers shall be made available to the licensee's employees and their independent contractors during training on the emergency action plan.*
 - (5) *Each licensed facility shall train all employees of the licensee, including their independent contractors, at the beginning of their employment with the licensed facility and on an annual basis on the emergency action plan and the persons responsible for the plan's implementation.*
 - (6) *Each licensed facility on which an underground mine is operated shall develop and implement a mine emergency evacuation and fire-fighting program that instructs all miners and other personnel of the licensed facility in the proper evacuation procedures they must follow if a mine emergency occurs. The program, and any revisions thereto, must be submitted to the executive director or his designee. All personnel of the licensed facility, including independent contractors, shall be trained in the performance of the plan's revisions prior to any of the revisions being implemented. The program shall include a plan to train all miners on all shifts with procedures for:*
 - (a) *Mine emergency evacuation for mine emergencies that present an imminent danger to miners due to fire, explosion, or gas, or water inundation;*
 - (b) *Evacuation of all miners not required for a mine emergency response;*
 - (c) *Rapid assembly and transportation of necessary miners, fire suppression equipment, and rescue apparatus to the scene of the mine emergency; and*
 - (d) *Operation of fire suppression equipment available in the mine.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

- (1) *A map shall be posted or readily accessible to all miners in each working section, and in each area where mechanized equipment is being installed or removed. The map shall show the designated escapeways from the working section to the locations where miners must travel to satisfy the escapeway drill specified in subsection (4) of this section.*
- (2) *A map showing the main escapeways shall be posted at the surface location of the licensed facility where miners congregate.*
- (3) *All maps shall be kept up to date. Any changes in routes of travel, locations of doors, or directions of airflow shall be shown on the maps by the end of the shift. Miners affected by the changes shall be informed of the changes before entering the underground areas of the mine. Miners on a shift underground when any change is made shall be immediately notified of the change.*
- (4) *At least once every ninety (90) days each miner, including those miners with working stations located between the working sections and main escapeways, shall participate in a practice escapeway drill.*

- (5) *During the drill, miners that do not have working stations located between the working sections and the main escapeways shall travel the greater distance of the two (2) following choices:*
- (a) *A path from the primary or alternate escapeway from the miner's working section or from the area where mechanized mining equipment is being installed or removed, to the area where the split of air ventilating the working section intersects a main air course; or*
 - (b) *A path which is two thousand (2,000) feet outby the section loading point.*
- (6) *Those miners who have working stations located between the working sections and the main escapeways shall participate in the escapeway drill by traveling in the primary or alternate escapeway for a distance of two thousand (2,000) feet from their working station toward the nearest escape facility or drift opening.*
- (7) (a) *At least once every six (6) weeks and for each shift, at least two (2) miners on each coal producing working section who work on that section, accompanied by the section foreman, shall participate in a practice escapeway drill and shall travel the primary or alternate escapeway:*
1. *From the location specified in paragraph (a) of subsection (5) of this section to the surface;*
 2. *To mechanical escape facilities; or*
 3. *To an underground entrance to a shaft or slope to the surface.*
- (b) *Systematic rotation of section personnel shall be used so that all miners participate in this drill.*
- (8) (a) *At least once every six (6) weeks, at least two (2) miners on each maintenance shift and a foreman or assistant foreman, shall participate in a practice escapeway drill and shall travel the primary or alternate escapeway:*
1. *From the location specified in paragraph (a) of subsection (5) of this section to the surface;*
 2. *To mechanical escape facilities; or*
 3. *To an underground entrance to a shaft or slope to the surface.*
- (b) *Systematic rotation of maintenance personnel and working sections shall be used so that all miners participate in the drill and so that the escapeways from all sections are traveled.*
- (9) *For all escapeway drills required by this section, an escapeway drill shall not be conducted in the same escapeway as the drill proceeding immediately thereafter.*
- (10) *Before or during practice escapeway drills, miners shall be informed of the locations of fire doors, check curtains, changes in the routes of travel, caches of self-rescuers, and plans for diverting smoke from escapeways.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

- (1) *There is hereby established a Mine Equipment Review Panel attached to the Department for Natural Resources in the Environmental and Public Protection Cabinet.*
- (2) *The Mine Equipment Review Panel shall be a permanent panel of recognized experts who shall review and make recommendations to the executive director of the Office of Mine Safety and Licensing regarding best available mine safety technologies, including but not limited to wireless tracking and communications devices for use by miners in underground mines. Based on the recommendations provided by the panel, the executive director shall compile a list of commercially available mine safety equipment, including wireless tracking and communications devices that may be approved for use by coal miners.*
- (3) *The panel shall meet at the call of the chair. The chair of the panel shall be the executive director of mine safety and licensing. Members of the panel shall serve without pay, but shall be entitled to reimbursement of travel-related expenses.*
- (4) *The Mine Equipment Review Panel shall be composed of the following members, who shall be appointed by the commissioner not less than thirty (30) days after the effective date of this Act:*
 - (a) *One (1) member shall represent the National Institute of Occupational Safety and Health;*
 - (b) *One (1) member shall represent the federal Mine Safety and Health Administration;*

- (c) *One (1) member shall represent the coal industry;*
 - (d) *One (1) member shall be appointed from the membership of the United Mine Workers of America and shall represent mine labor, preferably a member of a Kentucky mine rescue team;*
 - (e) *One (1) member shall represent the Department of Mining Engineering at the University of Kentucky; and*
 - (f) *One (1) member shall be the executive director of the Office of Mine Safety and Licensing.*
- (5) *The Mine Equipment Review Panel shall provide initial recommendations to the executive director of the Office of Mine Safety and Licensing not more than one hundred twenty (120) days after the panel members have been appointed and the panel is duly constituted to conduct business. Periodically, the panel shall review and make recommendations to the executive director on changes to or innovations in mine safety equipment that could be deployed in coal mines.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

No licensee, operator, mine superintendent, mine manager, or other supervisory personnel shall terminate or otherwise discipline a miner for reporting or documenting to or cooperating with regulatory agencies in their investigation of unsafe mining practices or conditions or violations of provisions of KRS Chapter 351 or 352.

Section 6. KRS 351.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
- (a) "Approved" means that a device, apparatus, equipment, or machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;
 - (b) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
 - (c) "Board" means the Mining Board created in KRS 351.105;
 - (d) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
 - (e) "Commission" means the Mine Safety Review Commission created by KRS 351.1041;
 - (f) "Commissioner" means commissioner of the Department for Natural Resources;
 - (g) "Department" means the Department for Natural Resources;
 - (h) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
 - (i) "Excavations and workings" means the excavated portions of a mine;
 - (j) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
 - (k) "Gassy mine." All mines shall be classified as gassy or gaseous;
 - (l) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
 - (m) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
 - (n) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the

workings. Workings that are adjacent to each other and under the same management, but which are administered as distinct units, shall be considered a separate mine;

- (o) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of the persons employed therein;
- (p) **"Mine manager" means a certified or noncertified person whom the licensee places in charge of a mine or mines and whose duties include but are not limited to operations at the mine or mines and supervision of personnel when qualified to do so;**
- (q) "Open-pit mine" shall include open excavations and open-cut workings, including but not limited to auger operations and highwall mining systems for the extraction of coal;
- ~~(r)(e)}~~ "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- ~~(s)(r)}~~ "Permissible" refers to any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and that meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification by the approving agency;
- ~~(t)(s)}~~ "Preshift examination" means the examination of a mine or any portion thereof where miners are scheduled to work or travel, which shall be conducted not more than three (3) hours before any on-coming shift;
- ~~(u)(t)}~~ "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- (v) **"Serious physical injury" means an injury which has a reasonable potential to cause death;**
- ~~(w)(u)}~~ "Shaft" means a vertical opening through the strata that is used in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- ~~(x)(v)}~~ "Slope" means an inclined opening used for the same purpose as a shaft;
- ~~(y)(w)}~~ "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;
- ~~(z)(x)}~~ "Supervisory personnel" means a person certified under the provisions of this chapter to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;
- ~~(aa)(y)}~~ "Office" means the Office of Mine Safety and Licensing; and
- ~~(ab)(z)}~~ "Executive director" means the executive director of the Office of Mine Safety and Licensing.

- (2) Except as the context otherwise requires, this chapter applies only to commercial coal mines.
- (3) The definitions in KRS 352.010 apply also to this chapter, unless the context requires otherwise.

Section 7. KRS 351.025 is amended to read as follows:

The department shall:

- (1) Promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed premises whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. These criteria shall include, but not be limited to, the following:
 - (a) In the case of individuals that are certified miners, the Mine Safety Review Commission may revoke or suspend an individual's certification, or probate an individual's certification for up to ten (10) working days for first offenses, and the Mine Safety Review Commission shall establish a maximum penalty for subsequent offenses;
 - (b) In the case of individuals that are owners or part-owners of licensed premises, the Mine Safety Review Commission may impose civil monetary penalties against individuals not to exceed ten thousand dollars (\$10,000); and

- (c) In the case of noncertified personnel, the Mine Safety Review Commission may impose civil monetary fines equivalent to the value of the wages they receive for up to ten (10) working days for first offenses and the commission shall establish maximum penalties for subsequent offenses;
- (2) ***Notwithstanding subsection (15) of Section 8 of this Act***, promulgate administrative regulations that establish comprehensive criteria for the Mine Safety Review Commission's imposition of penalties against licensed premises ***for violations of*** ~~if an owner or part owner intentionally orders~~ mine safety laws ~~to be violated~~ that place miners in imminent danger of serious injury or death. These penalties shall include, but not be limited to, the revocation or suspension of the mine's license, the probation of a mine's license for a first offense, or the imposition of a penalty against the licensee not to exceed the gross value of the production of the licensed premise for up to ten (10) working days;
- (3) Direct that an employer shall not directly or indirectly reimburse a sanctioned miner or mine supervisor for days of work lost as a result of sanctions imposed by the Mine Safety Review Commission;
- (4) Establish procedures by which the department shall communicate with the Federal Mine Safety and Health Administration (MSHA) concerning allegations of mine safety violations against Kentucky coal operators and miners;
- (5) Jointly with the Mine Safety Review Commission establish a process for referring allegations of mine safety violations to the Mine Safety Review Commission for adjudication ***and for the hearing of appeals from penalties imposed by the Office of Mine Safety and Licensing, and the underlying violation, authorized under subsection (15) of Section 8 of this Act***; and
- (6) Establish procedures to distribute quarterly reports to every licensed entity describing mine fatalities, serious mine accidents, and penalties imposed on certified and noncertified personnel and licensed premises and to require the report to be distributed to every certified working miner employed by the licensed entity, posted at work sites, and reviewed at regular mine safety meetings.

Section 8. KRS 351.070 is amended to read as follows:

- (1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department. There is created within the Department for Natural Resources an Office of Mine Safety and Licensing.
- (2) The secretary shall appoint an executive director to the Office of Mine Safety and Licensing in accordance with KRS 224.10-020(2) and prescribe his powers and duties.
- (3) The commissioner may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.
- (4) The commissioner may, whenever he or she deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one (1) district to another.
- (5) The commissioner shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.
- (6) The commissioner shall collect statistics relating to coal mining in the state and make an annual report of the statistics.
- (7) The commissioner shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.
- (8) The commissioner shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.
- (9) The commissioner shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.
- (10) The commissioner shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.

- (11) The commissioner may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.
- (12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.
- (13) The secretary of the Environmental and Public Protection Cabinet shall have the power and authority to promulgate, amend, or rescind any administrative regulations he or she deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the secretary only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.
- (14) The commissioner shall ascertain the cause or causes of any coal mining fatality and, within sixty (60) days of completion of the investigation, shall report his *or her* findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. The recommendations may include, without being limited to, the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality.
- (15) *The commissioner shall assess civil monetary penalties against licensed facilities for violations of laws in this chapter and KRS Chapter 352 pertaining to roof control plans and mine ventilation plans that could lead to imminent danger or serious physical injury. The Environmental and Public Protection Cabinet shall promulgate administrative regulations within ninety (90) days of the effective date of this Act providing for the manner and method of the assessment of the penalties and appeals therefrom. In no event shall the civil penalty assessed pursuant to this subsection for the violation exceed five thousand dollars (\$5,000). Nothing contained in this subsection shall be construed to impair or contravene the authority granted under subsection (2) of Section 7 of this Act for imposing penalties against licensed facilities.*

Section 9. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine inspectors to ~~ensure~~~~[insure]~~ at least two (2) inspections annually, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of coal mines where conditions or management policy dictate that more inspections are needed to insure the safety of miners. ***Except, the commissioner shall inspect all underground coal mines not less than three (3) times annually.*** One (1) or more of the appointees may be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.
- (2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.
- (3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. A person appointed as mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.

- (4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.
- (6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.
- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.

Section 10. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

- (1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;
- (2) Training officials and workmen in and about the mines in first aid and mine rescue methods;
- (3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;
- (4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;
- (5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;
- (6) Inspecting each *underground coal* mine in his district at least **three (3) times a year and all other mines once every six (6) months. The commissioner may cause inspections**~~once every six (6) months, or~~ more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;
- (7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal including any overland coal belts; and
- (8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal mine, including any overland coal belts, at any reasonable time.

Section 11. KRS 351.175 is amended to read as follows:

- (1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.
- (2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

- (3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.
- (4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars (\$100) and a maximum of fifteen hundred dollars (\$1,500). *The license shall be issued when the following are properly submitted to the commissioner:*
- (a) *The annual report of the licensee and the annual mine map required in KRS 351.170 and Section 27 of this Act;*
 - (b) *A certification from the executive director of the Office of Workers Claims that the licensee has provided positive proof of compliance with the provisions of KRS Chapter 342;*
 - (c) *A certification from the commissioner of the Department of Revenue that the licensee is not a "delinquent taxpayer" as defined in KRS Chapter 131;*
 - (d) *The ventilation plan required in Section 14 of this Act; and*
 - (e) *An approved emergency action plan required by Section 2 of this Act*~~[When the annual report of the licensee and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the executive director of the Office of Workers' Claims that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, and a certification from the commissioner of the Department of Revenue that the applicant is not a "delinquent taxpayer" as defined in KRS Chapter 131, are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty five (45) days. Upon receipt of withdrawal of the certification of the executive director of the Office of Workers' Claims, or upon receipt of notice from the commissioner of revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license issued. Revocation of a license shall be an administrative function of the department. Appeal of the revocation of a license shall lie in the Fayette Circuit Court].~~
- (5) *The department shall immediately revoke any license, if the department receives:*
- (a) *Withdrawal of the certification of compliance with KRS Chapter 342 issued by the executive director of the Office of Workers' Claims; or*
 - (b) *Notice from the commissioner of the Department of Revenue that the licensee is a "delinquent taxpayer" as defined in KRS Chapter 131.*
- (6) *The commissioner, the executive director of the Office of Mine Safety and Licensing, or the mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.*
- ~~(7) (6)~~ The department shall be authorized to seek injunctive relief for any violation of this section. *Revocation of a license by the department shall be an administrative function of the department. Appeals from revocation by the department shall be brought in Franklin Circuit Court.*
- ~~(8) (7)~~ A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the commissioner of revenue.
- ~~(9) (8)~~ No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 12. KRS 351.190 is amended to read as follows:

The commissioner of the department shall partition the coal fields of the state into mine rescue divisions. In each division there shall be a station, the location of which shall be determined by the commissioner, and there shall be kept at each station apparatus, appliances, and supplies for use in the work of rescue and relief upon the occurrence of *entrapments, roof falls, inundation of liquids or gasses*, explosions or mine fires, and for the training of officials

and miners in mine rescue work. The commissioner shall provide each station and himself with the necessary instruments, appliances, apparatus, chemicals, trucks, and automobiles, and shall designate one (1) of the inspectors to have charge of each station.

Section 13. KRS 352.010 is amended to read as follows:

- (1) As used in this chapter, unless the context requires otherwise:
- (a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;
 - (b) "Active workings" means all places in a mine that are ventilated and inspected regularly;
 - (c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department for Natural Resources;
 - (d) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;
 - (e) "Board" means the Mining Board created in KRS 351.105;
 - (f) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;
 - (g) "Commissioner" means commissioner of the Department for Natural Resources;
 - (h) "Department" means the Department for Natural Resources;
 - (i) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;
 - (j) "Excavations and workings" means the excavated portions of a mine;
 - (k) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated in by the last open crosscut in any entry or room;
 - (l) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;
 - (m) "Gassy mine." All underground mines shall be classified as gassy or gaseous;
 - (n) "High voltage" means any voltage of one thousand (1,000) volts or more;
 - (o) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;
 - (p) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;
 - (q) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;
 - (r) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;
 - (s) "Low voltage" means up to and including six hundred sixty (660) volts;
 - (t) "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;
 - (u) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the

workings. Workings that are adjacent to each other and under the same management and which are administered as distinct units shall be considered separate mines;

- (v) "Mine foreman" means a certified person whom the licensee, *mine manager*, or superintendent places in charge of the workings of the mine and of persons employed therein;
- (w) ***"Mine manager" means a certified or noncertified person whom the licensee places in charge of a mine or mines and whose duties include, but are not limited to, operations at the mine or mines and supervision of personnel when qualified to do so;***
- (x) "Open-pit mine" shall include open excavations and open-cut workings including auger operations and highwall mining systems for the extraction of coal;
- (y)~~(x)~~ "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;
- (z)~~(y)~~ "Permissible" means that any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;
- (aa)~~(z)~~ "Preshift examination" refers to the examination of an underground mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;
- (ab)~~(aa)~~ "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;
- (ac)~~(ab)~~ ***"Serious physical injury" means an injury which has a reasonable potential to cause death;***
- (ad) "Shaft" means a vertical opening through the strata that is or may be used, in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;
- (ae)~~(ac)~~ "Slope" means an inclined opening used for the same purpose as a shaft;
- (af)~~(ad)~~ "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;
- (ag)~~(ae)~~ "Supervisory personnel" shall mean a person or persons certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;
- (ah)~~(af)~~ "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;
- (ai)~~(ag)~~ "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;
- (aj)~~(ah)~~ "Working place" means the area of a coal mine in by the last open crosscut;
- (ak)~~(ai)~~ "Working section" means all areas of a coal mine from the loading point to and including the working faces; and
- (al)~~(aj)~~ "Workmanlike manner" means consistent with established practices and methods utilized in the coal industry.

- (2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.
- (3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010 and shall not apply to electrical facilities owned, operated, or otherwise controlled by a retail electric supplier or generation and transmission cooperative as defined in KRS 278.010 or organized under KRS Chapter 279 for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established easement rights on private property and that are covered by the National Electric Safety Code (NESC) or other applicable safety codes, or other authorities having jurisdiction and shall not

apply to installations under the exclusive control of utilities for the purpose of communication, metering, or for the generation, control, transformation, transmission, and distribution of electric energy located in buildings used exclusively by utilities for such purposes or located outdoors on property owned or leased by the utility or on public highways, streets, roads, or outdoors by established rights on private property.

Section 14. KRS 352.020 is amended to read as follows:

- (1) *A mine ventilation plan and any revision of an existing mine ventilation plan shall be suitable to the ventilation conditions and mining system of each mine. The mine ventilation plan and any revisions to the mine ventilation plan approved by the United States Mine Safety and Health Administration shall be submitted to the executive director or his or her authorized representative and incorporated into the license. All mine ventilation plans shall be set forth in printed form. The mine ventilation plan shall require the air quality throughout the mine contain at least nineteen and one-half percent (19.5%) oxygen and not more than one-half of one percent (0.5%) of carbon dioxide, and the volume and velocity of the air current shall be sufficient to dilute, render harmless, and carry away flammable, explosive, noxious, and harmful gases, dust, smoke, and fumes. A copy of the mine ventilation plan and any revisions to that plan shall be available to the miners and their representatives.*
- (2) The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.
- ~~(3)(2)~~ The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine two (2) separate and distinct escapeways, one (1) of which is vented by the intake air. However, if a mine was originally licensed prior to January 1, 1990, the commissioner may approve an alternate ventilation plan. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases. ~~All active underground working places in a mine shall be ventilated by a current of air containing not less than nineteen and one-half percent (19.5%) of oxygen, and no harmful quantities of other noxious or poisonous gases.~~
- ~~(4)(3)~~ All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection ~~(3)(2)~~ of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.
- ~~(5)(4)~~ When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air. *Return air courses shall not be designated as primary escapeways.*
- ~~(6)(5)~~ As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner or his authorized representative may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air *or the travel of equipment*, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where

doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.

- (7)(6) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all ~~trolley and~~ feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.
- (8) ***The ventilation plan shall require all fans utilized in the ventilation plan to be in operation for a sufficient period to ensure air quality and equalization of the mine atmosphere prior to the entry of workers into underground areas.***

Section 15. KRS 352.110 is amended to read as follows:

- (1) No licensee, superintendent, ***mine manager***, or mine foreman of any mine opened after June 16, 1972, shall permit persons to work therein unless there are to every seam of coal worked in the mine at least two (2) separate outlets, separated by natural strata of not less than one hundred fifty (150) feet in breadth if the mine is worked by shaft or slope, and separated by a pillar of natural strata of not less than two thousand (2,000) square feet if the mine is worked by drift, by which outlets distinct means of ingress and egress are readily available to persons employed in the mine, but it shall not be necessary for the two (2) outlets to belong to the same mine. This subsection does not apply to the openings of a new entry that is being worked for the purpose of making connection between the two (2) outlets so long as not more than twenty (20) persons are employed at one (1) time in making the connection or driving the second opening, or to any mine in which the second opening has been rendered unavailable by reason of final robbing or removal of pillars so long as not more than twenty (20) persons are employed therein at one (1) time, and the workings are no farther than five hundred (500) feet from the bottom of the shaft or slope or from the drift opening.
- (2) If any mine has but one (1) means of ingress or egress for persons employed therein, and the owner does not own suitable ground for another opening, the owner may select appropriate adjacent ground for that purpose and have it condemned pursuant to the Eminent Domain Act of Kentucky.

Section 16. KRS 352.133 is amended to read as follows:

- (1) All underground miners shall be provided with an approved self-contained self-rescuer device and shall have that device within twenty-five (25) feet of them at all times ~~unless the licensee receives approval from the commissioner to store self-contained self rescuers more than twenty five (25) feet away from underground miners~~. The self-contained self-rescuer shall be provided to the miners by the licensee at no cost to the miners.
- (2) ***In addition to the requirements for self-contained self-rescuers set forth in this section, all licensed premises shall maintain caches of self-contained self-rescuer devices which shall be stored in locations readily accessible to the primary and secondary escapeways or provide proof of an order for self-contained self-rescuers through the submission of a valid purchase order that clearly names the vendor, contact information for the vendor, the number of devices purchased, and the date of the order, which shall not be later than thirty (30) days after the effective date of this Act. In all cases, the self-contained self-rescuers shall be in place by July 1, 2007, or shall be extended by the commissioner upon substantiated proof of unavailability.***
- (a) ***The caches shall be maintained in sufficient numbers and locations determined in accordance with the most recent rules, standards, and regulations issued by the United States Mine Safety and Health Administration;***
- (b) ***The caches shall be maintained in storage units capable of protecting the self-contained self-rescuers from water, dust, and any other condition which will cause deterioration of the self-contained self-rescuer;***
- (c) ***The storage unit locations shall have reflective signs that read "SELF-RESCUERS" conspicuously posted as to be visible from the primary and secondary escapeways. Intrinsically safe strobe light devices also shall be attached to the storage unit. The strobe light devices may operate continuously or shall be capable of activation in the event of a mine emergency;***

- (d) *In addition to the requirements set forth in this section for self-contained self-rescuers, the mine operator shall provide for each person who is underground at least one (1) additional self-contained self-rescuer device which provides protection for a period of one (1) hour or longer, to cover all persons in the mine; and*
 - (e) *If a mantrip or mobile equipment is used to enter or exit the mine, additional self-contained self-rescuer devices, each of which provides protection for a period of one (1) hour or longer, shall be available for all persons who use the transportation from portal to portal.*
- (3) *It shall be a Class D felony for any person to remove a self-rescuer from the cache for purposes other than use during an emergency, or for repair, maintenance, or replacement or as authorized by the licensee.*

Section 17. KRS 352.135 is amended to read as follows:

In all~~[Where return airways are]~~ designated~~[as]~~ escapeways, each operator shall provide lifeline cords, with attached reflective material at not to exceed twenty-five (25) foot intervals *and devices indicating the direction to the surface at not to exceed one hundred (100) foot intervals*, from *outby the loading point*~~[the last open crosscut to the surface]~~; provided, that in case of a shaft mine, such lifeline cords shall extend from *outby to the loading point*~~[the last open crosscut]~~ to the bottom of the designated escape shaft. Such lifeline cord shall be of durable construction sufficient to allow miners to see and to use effectively to guide themselves out of the mine in the event of an emergency.

Section 18. KRS 352.150 is amended to read as follows:

- (1) After June 16, 1972, on single-track haulage roads in mines, which the persons employed in the mine must use while performing their work or while traveling on foot to and from their work, there shall be places of refuge on one (1) side not less than five (5) feet in depth from the side of the mine car, and five (5) feet wide, and not more than ninety (90) feet apart. Refuge holes of the same dimensions shall also be provided at switch throws.
- (2) Special places of refuge are not required on haulage roads on which room necks or breakthroughs occur at regular intervals not exceeding ninety (90) feet, and thus furnish places of refuge, or on haulage roads in which the track is so laid as to give a minimum clearance on one (1) side of not less than thirty (30) inches from the side of any haulage engine or any mine car, the clearance to be on the side of the road opposite that upon which electric wires are strung, if electric wires are strung in the road.
- (3) No unauthorized person shall travel on foot to or from work upon any haulage road or slope where transportation is by track, when other roads in proper condition for travel are available.
- (4) On all main haulage roads where hauling is done by machinery the mine foreman shall provide a proper system of signals, and a conspicuous light or marker approved by the commissioner on the front and rear of every trip or train of cars when in motion in the mine.
- (5) Man-trips shall be operated at safe speeds consistent with the condition of roads and type of equipment used and shall be so controlled that they can be stopped within the limits of visibility, in no event at a speed in excess of twelve (12) miles per hour.
- (6) Each man-trip consisting of more than one (1) mine car of men shall be under the charge of a certified official, and it shall be operated independently of any loaded trip of coal or other material.
- (7) Cars on the man-trip shall not be overloaded, and sufficient cars in good mechanical condition shall be provided.
- ~~(8) [No person shall ride under the trolley wire unless suitably covered man cars are used.]~~
- ~~(9) [No material or tools except small hand tools shall be transported in the same car with men on any man-trip unless in a separate, enclosed compartment of the car, and all persons shall ride inside of man-trip cars, except the motorman and brakeman or trip rider.]~~
- ~~(9) [(10)]~~ Men shall not load or unload before the cars in which they are to ride or are riding come to a full stop, and men shall proceed in an orderly manner to and from man-trips.
- ~~(10) [(11)]~~ A waiting station shall be provided where men are required to wait for man-trips or man-cages. It shall have sufficient room, ample clearance from moving equipment, and adequate seating facilities.

- (11)~~(12)~~ ~~{Trolley and }~~Power wires shall be guarded effectively at man-trip stations where there is a possibility of any person coming in contact with energized electric wiring while loading or unloading from the man-trip.
- (12)~~(13)~~ Cars used for transporting men on slopes shall be equipped with a safety device capable of stopping the trip in event of failure of the rope or couplings. The device shall be approved by the commissioner.
- (13)~~(14)~~ Where belts are used for transporting men, unless the commissioner finds that a safety hazard exists which cannot be corrected, the belt transport will be allowed, and a minimum clearance of eighteen (18) inches shall be maintained between the belt and the roof or cross bars, projecting equipment, cap pieces, overhead cables, wiring, and other objects; but where the height of the coal bed permits, the clearance shall not be less than twenty-four (24) inches.
- (14)~~(15)~~ Unless a greater speed is allowed by special permission from the commissioner, in which event the conditions, limitations, and rules imposed in connection with the grant of permission shall be observed, the belt speed shall not exceed two hundred fifty (250) feet per minute where the minimum overhead clearance is eighteen (18) inches, or three hundred (300) feet per minute when the minimum overhead clearance is twenty-four (24) inches, while men are loading, unloading, or being transported.
- (15)~~(16)~~ The space between men riding on a belt line shall not be less than six (6) feet.
- (16)~~(17)~~ Loading and unloading stations shall be illuminated properly.
- (17)~~(18)~~ A certified official or some other supervisory personnel appointed by the mine foreman shall supervise all man-trips.
- (18)~~(19)~~ At all mines utilizing track haulage or transportation, there shall be developed a safe and uniform system of traveling through all switch points to prevent collisions. This system shall be designed in a manner which ensures that all persons can determine who has the right of way in all circumstances. Information concerning this system shall be included in annual retraining.
- (19)~~(20)~~ Efficient equipment, either mobile or self-propelled, equipped with sufficient first-aid equipment and supplies, shall be available on all underground sections where men are present to transport injured workers to the surface.
- (20)~~(21)~~ At those mines that do not have a contract or other arrangement for providing ambulance service, a 4-wheel-drive vehicle or other vehicle suitable to the terrain equipped with sufficient first-aid equipment and supplies shall be available to the mines or preparation facilities for the transportation of injured workers. At those mines that have a contract or other arrangement for providing ambulance service, the access road to the mine or preparation facility shall be kept in a condition which is passable by the ambulance vehicle **or other emergency rescue equipment**.
- (21)~~(22)~~ The commissioner shall be empowered to draft additional administrative regulations providing for transportation of men when necessary.

Section 19. KRS 352.180 is amended to read as follows:

- (1) Whenever serious **physical**~~personal~~ injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, **entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases**, or other serious accident occurs, the superintendent of the mine, or, **if he is absent, the mine manager, or** if he is absent, the mine foreman in charge of the mine **or his designee**, shall **within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under subsection (3) of Section 1 of this Act**~~immediately~~ give notice to the ~~department~~~~mine inspector~~ and to the representative of the miner, stating the particulars of the accident ~~and if anyone is killed thereby to the commissioner~~. **No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.**
- (2) **Upon receipt of notification of an occurrence set forth in subsection (1) of this section**, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.

- (3) The record *of the investigations* shall be preserved with the other records of *the commissioner's*~~his~~ office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.
- (4) *Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that place miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars (\$10,000) nor more than one hundred thousand dollars (\$100,000).*

Section 20. KRS 352.280 is amended to read as follows:

- (1) In all mines the licensee, *mine manager*, or superintendent shall employ one (1) or more properly certified persons.
- (2) A properly certified person shall examine carefully, within three (3) hours before each shift enters the mine:~~;~~
- (a) Every working place;~~;~~
 - (b) All places adjacent to live workings;~~;~~
 - (c) Every roadway where persons are required to work or travel;~~;~~
 - (d) All abandoned panels on the intake;~~;~~
 - (e) Every set of seals on the intake;~~;~~ and
 - (f) All roof falls near active workings on the intake and on the working sections.
- (3) Before proceeding with the examination he shall see that the air current is traveling its proper course.
- (4) *A properly certified person*~~In making the examination he~~ shall use approved gas detection devices *in the performance of the required examination and shall examine the entrances to all worked-out and abandoned portions adjacent to the intake roadways and working places under his charge where explosive gas is likely to accumulate.*
- (5) ~~A properly certified person shall examine for all dangers in all portions of the mines under his charge, and~~After examination *the properly certified person*~~he~~ shall leave at or as close as possible to the face of every place examined the date and time of the examination and his initials as evidence that he has performed his duty.
- (6) *If an explosive mixture of gas is discovered, the properly certified person*~~He shall also examine the entrances to all worked-out and abandoned portions adjacent to the roadways and working places under his charge where explosive gas is likely to accumulate, and he~~ shall place a danger signal across the entrance to every place where explosive gas is discovered or where immediate danger is found to exist from any other cause. The signal shall be sufficient warning *to ensure that persons do not enter the area*~~for persons not to enter~~.
- (7) When the mine is idle and workmen are required to go into the mine, the section, portion, or part of the mine entered must be inspected by a properly certified person within three (3) hours before the workmen enter.
- (8) Each week, a properly certified person designated by the mine foreman shall examine each set of seals on the return, all designated intake and return entries, and all escapeways.

Section 21. KRS 352.320 is amended to read as follows:

- (1) All commercial coal mines shall employ a certified mine foreman therein to properly carry out the plans and rules when approved by the commissioner of the department and to be responsible for compliance with the provisions of KRS Chapter 351 and this chapter.
- (2) When the mine workings become so extensive that the mine foreman is unable personally to carry out the duties required of him by law, the operator,~~or~~ superintendent, *or mine manager* shall employ a sufficient number of persons holding suitable certificates of qualifications to act as assistants to the mine foreman, and under his instructions.

Section 22. KRS 352.340 is amended to read as follows:

The mine foreman or his assistants shall visit and carefully examine each working place in the mine at least every four (4) hours while the mine employees are at work. He shall examine as live workings, on regular inspections, all places in live sections that are temporarily abandoned. If the mine foreman finds any place to be in a dangerous condition, he shall not leave the place until it is made safe, or until the employees working therein are removed until the place is made safe. He shall see that every mine liberating explosive gas is kept free of standing gas in all working places and roadways, and that all accumulations of explosive or noxious gases in the worked-out or abandoned portions of any mine are removed as soon as possible after discovery. He shall ensure that all preshift examinations are conducted by a certified person and that examinations of conveyor belts have been conducted. He shall not allow any person who may be endangered by the presence of explosive or noxious gases to enter that portion of the mine until the gases have been removed. He shall direct and see that all dangerous places and the entrances to worked-out and abandoned places in all mines are properly barricaded across the openings, so that no person will enter, and that danger signs are posted upon the barricade to warn persons of existing danger. He shall give prompt attention to the removal of all dangers reported to him by his assistants, the fire boss or any person working in the mine, and if it is impracticable to remove the danger at once he shall notify every person whose safety is menaced thereby to remain away from the portion where the dangerous condition exists. He or his assistants, fire bosses, or other certified persons shall, at least once every week, travel and examine all air courses, escapeways, *the caches of self-contained self-rescuer devices required by Section 16 of this Act, the cache's contents*, seals on the return, roads, and openings that give access to old workings or pillar falls, and make a record of the condition of all places where danger has been found. The record shall be made with ink pencil in the record book provided for that purpose.

Section 23. KRS 352.350 is amended to read as follows:

- (1) The mine foreman shall notify, in writing, the licensee or superintendent of the mine of his inability to comply with any of the requirements of the mining laws, and the licensee or superintendent shall at once attend to the matter complained of by the mine foreman so as to enable him to comply with the mining laws.
- (2) The mine foreman shall each day enter and sign plainly with ink, in a book provided for that purpose, a report of the condition of the mine. The report shall clearly state any danger that comes under his observation during the day or is reported to him by his assistants or by the fire bosses, and shall state what action was taken to correct such danger, whether or not there is a proper supply of material on hand for the safe working of the mine, and whether or not the mining laws are being complied with. The mine foreman shall each day read carefully, and countersign with ink, all reports entered in the record book of the fire bosses.
- (3) The mine superintendent, *mine manager*, mine foreman, and assistant foreman shall be held jointly responsible for the immediate compliance with the provisions of KRS Chapter 351 and this chapter.

Section 24. KRS 352.410 is amended to read as follows:

- (1) Each superintendent *or mine manager* shall, on behalf and at the expense of the licensee, keep on hand at or within convenient distance of the mine, not to exceed five hundred (500) feet, a sufficient quantity of all materials and supplies required to preserve the safety of employees, as ordered by the mine foreman and required by law. If the superintendent *or mine manager* cannot procure the necessary materials or supplies, he shall at once notify the mine foreman, who shall withdraw the men from the mine until the materials or supplies are received.
- (2) The superintendent *or mine manager* shall, at least once each week, read and examine carefully and countersign all reports entered in the mine record book of the mine foreman.
- (3) The licensee, ~~superintendent~~, *or mine manager* shall cooperate with the mine foreman and other officials in the fulfillment of their duties under KRS Chapter 351 and this chapter, and shall direct that the mine foreman and all other employees under him comply with the law, especially when his attention is called by the mine inspector or by the commissioner to any violations of the laws.
- (4) The superintendent *or mine manager* shall keep on hand at the mine a supply of printed rules, notices, and record books required by this chapter. The superintendent *or mine manager* shall see that rules, notices, and record books are delivered to the proper persons at the mine and are properly cared for, and that the rules and notices are posted in conspicuous places at or near the entrance to the mine and kept legible.

Section 25. KRS 352.420 is amended to read as follows:

- (1) The operator,~~[-or]~~ superintendent, **or mine manager** of each mine shall give the commissioner at least ten (10) days' notice of the following:
 - (a) Abandonment of a mine;
 - (b) Resumption of work in a mine after an abandonment or discontinuance for a period of two (2) weeks or more; and
 - (c) Change in the operator or name of a mine.

- (2) Each mine shall be inspected and approved by the department before operations are resumed after an abandonment.

Section 26. KRS 352.430 is amended to read as follows:

- (1) The operator,~~[-or]~~ superintendent, **or mine manager** of every mine shall furnish the mine inspector proper facilities for entering the mine and making examinations or obtaining information.
- (2) If any inspector discovers that any mine does not conform to the provisions of KRS Chapter 351 and this chapter in respect to the safety of employees, or that by reason of any defect or practice not specifically covered by these chapters in or about the mine, the lives or health of persons employed therein are endangered, he shall immediately issue an emergency order to the licensee or superintendent. If he deems it necessary for the immediate protection from imminent danger of bodily harm of the persons employed in the mine, he shall withdraw the men who may be endangered **according to the following procedures:**~~[-]~~
 - (a) If the entire mine is affected by the dangerous condition, all men shall be withdrawn and production shall be halted until all defects causing the imminently dangerous condition are corrected;~~[-]~~
 - (b) If an imminent danger affects only a portion of the mine, the persons whose safety may be menaced thereby shall be withdrawn from the affected part of the mine and production halted in that area until the dangerous condition is corrected;~~[-]~~
 - (c) ~~[-]However, [-]~~Where production is necessary to correct the unsafe condition, it shall be permitted to that extent, using only the necessary personnel; **and**~~[-]~~
 - (d) Production at the affected area of a mine from which men are withdrawn pursuant to this section may be resumed upon reinspection by a mine inspector and a finding by that inspector that the mine is no longer imminently unsafe.
- (3) In all emergency hearings, a departmental attorney, the Attorney General, the Commonwealth's attorney, or the county attorney of the judicial circuit or county in which the mine is situated shall appear for the Commonwealth and defend the action.

Section 27. KRS 352.450 is amended to read as follows:

- (1) The operator or superintendent of each underground mine shall annually make or cause to be made a map of the workings of the mine which is accurate and of professional quality, on a scale of not less than one hundred (100) and not more than five hundred (500) feet to the inch, showing the area mined and the forms of the excavations up to January 1, together with the location and connection of the property and mineral lease lines of all adjoining lands within one thousand (1,000) feet of the excavations and, marked on each tract, the name of each owner or lessee of adjoining lands and of mine property for which the map is being filed. Such map shall also show:
 - (a) The proposed general plan of mining for the next twelve (12) months;
 - (b) All pillared, worked-out, and abandoned areas;
 - (c) Entries and aircourses with the direction of airflow indicated by arrows;
 - (d) Dip of the coal bed;
 - (e) Escapeways;
 - (f) Major roof falls;

- (g) Any worked-out areas within one thousand (1,000) feet of the projections proposed for the next twelve (12) months, designating whether active, abandoned, or pillared, and showing precautions to be taken if mines are projected towards old workings which cannot be examined;
- (h) Mines above or below;
- (i) Water pools above;
- (j) Location of all known oil and gas wells, both producing and abandoned, within the area required to be mapped, as well as owners and well numbers when possible;
- (k) Such map shall identify those areas of the mine which are inaccessible or cannot be entered safely and on which no information is available;
- (l) The name and address of the mine, the mine number, seam, and seam thickness;
- (m) The scale and orientation of the map, longitude and latitude, and corresponding USGS 7.5 minute quadrangle map;
- (n) The property or boundary lines of the mine, indicating the twenty-five (25) foot barrier required by KRS 352.490 between projections and property lines;
- (o) All known drill holes that penetrate the coal bed being mined;
- (p) All shaft, slope, drift, and tunnel openings and auger and strip-mined areas of the coal bed being mined;
- (q) The location of all surface mine ventilation fans; the location may be designated on the mine map by symbols;
- (r) The location of railroad tracks and public highways leading to the mine, and mine buildings of a permanent nature with identifying names shown, and water sheds near openings of the mine;
- (s) The location and description of at least two (2) permanent base line points coordinated with the underground and surface mine traverses, and the location and description of at least two (2) permanent elevation bench marks used in connection with establishing or referencing mine elevation surveys, and any other identifying permanent landmarks;
- (t) The location and elevation of any body of water dammed in the mine or held back in any portion of the mine; provided, however, such bodies of water may be shown on overlays or tracings attached to the mine maps used to show contour lines;
- (u) The elevations of tops and bottoms of shafts and slopes, and the floor at the entrance to drift and tunnel openings;
- (v) The elevation of the floor at intervals of not more than two hundred (200) feet in:
 1. At least one (1) entry of each working section, main entry, and cross entries;
 2. The last line of open crosscuts of each working section, and main and cross entries before such sections and main and cross entries are abandoned;
 3. Rooms advancing toward or adjacent to property or boundary lines or adjacent mines; and
- (w) Contour lines passing through whole number elevations of the coal bed being mined. The spacing of such lines shall not exceed ten (10) foot elevation levels, except that a broader spacing of contour lines may be approved by the commissioner or his authorized representative for steeply-pitching coal beds. Contour lines may be placed on overlays or tracings attached to mine maps.

The operator,~~or~~ superintendent, **or mine manager** shall deposit a true copy of the map with his license application to the commissioner within forty-five (45) days after January 1, and another copy of the map shall be kept at the office of the mine. A copy shall also be furnished the district office of the department.

- (2) After making and filing the map with the commissioner, the operator,~~or~~ superintendent, **or mine manager** thereafter is only required to file annually with the commissioner, within the time specified, such additional map and statement as is necessary to show the progress of the workings, the amount and forms of excavations, and the property lines within one thousand (1,000) feet of the excavations extended since the date of the preceding map. The commissioner shall annually, before January 1, give notice that the map is required.

- (3) The commissioner may require any operator,~~or~~ superintendent, *or mine manager* to furnish a map other than those required in subsections (1) and (2) of this section or of a surface mine, and the operator or superintendent shall immediately comply with the requirement.
- (4) The mine inspector shall have the authority to stop production at the mine of any operator who does not furnish within thirty (30) days of notification of specific deficiencies a map which fully complies with the requirements of this section.

Section 28. KRS 352.460 is amended to read as follows:

- (1) If the operator,~~or~~ superintendent, *or mine manager* of any mine fails to furnish to the commissioner any map required by KRS 352.450 and 352.480, the commissioner may cause a correct survey and map of the mine or extensions thereof to be made at the expense of the owner, lessee or operator of the mine, and the cost of the map shall be recoverable from the owner, lessee or operator in the same manner as debts are recoverable by law.
- (2) If at any time the commissioner has reason to believe that any map furnished under KRS 352.450 and 352.480 is materially incorrect, so that it will not serve the purpose for which it was intended, he may have a survey and map made or corrected, and the expense of making the survey, map or correction shall be paid by the owner, lessee or operator of the mine, or recovered in the same manner as debts are recoverable by law; but if the map furnished by the operator or superintendent is found to be correct, the expense of the survey and drafting of the map shall be paid by the Commonwealth.

Approved April 21, 2006.